



Reprinted
February 28, 2014

ENGROSSED SENATE BILL No. 180

DIGEST OF SB 180 (Updated February 27, 2014 3:01 pm - DI 77)

Citations Affected: IC 10-17; IC 12-7; IC 12-8; IC 27-1; IC 34-13; noncode.

Synopsis: Veteran matters. Establishes the veterans disability clinic fund to provide funding for grants to qualified law schools that maintain a veterans disability clinic. Establishes the Indiana veteran recovery program and fund to provide certain services for veterans who have traumatic brain injuries or posttraumatic stress disorder. Establishes the brain injury rehabilitation and community living commission to establish a statewide plan to address the needs of individuals affected by a brain injury. Requires the state department of health to study and report findings and recommendations to the legislative council not later than September 1, 2014, concerning implementation of a program for the treatment of veterans who have traumatic brain injury or posttraumatic stress disorder.

Effective: Upon passage; July 1, 2014.

**Banks, Hershman, Stoops,
Charbonneau, Steele, Randolph**
(HOUSE SPONSORS — ZENT, CARBAUGH, HAMM)

January 8, 2014, read first time and referred to Committee on Health and Provider Services.

January 30, 2014, amended, reported favorably — Do Pass.

February 3, 2014, read second time, ordered engrossed. Engrossed.

February 4, 2014, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Public Health.

February 24, 2014, amended, reported — Do Pass.

February 27, 2014, read second time, amended, ordered engrossed.

ES 180—LS 6354/DI 97



Reprinted
February 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 180

A BILL FOR AN ACT to amend the Indiana Code concerning veterans and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-17-12.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]:
4 **Chapter 12.5. Veterans Disability Clinic Fund**
5 **Sec. 1. As used in this chapter, "commission" refers to the**
6 **Indiana veterans' affairs commission established by IC 10-17-13-4.**
7 **Sec. 2. As used in this chapter, "department" refers to the**
8 **Indiana department of veterans' affairs established by**
9 **IC 10-17-1-2.**
10 **Sec. 3. As used in this chapter, "director" refers to the director**
11 **of veterans' affairs.**
12 **Sec. 4. As used in this chapter, "fund" refers to the veterans**
13 **disability clinic fund established by section 7 of this chapter.**
14 **Sec. 5. As used in this chapter, "qualified law school" means a**
15 **law school:**
16 **(1) located in Indiana; and**
17 **(2) approved by the American Bar Association;**

ES 180—LS 6354/DI 97



1 that operates a veterans disability clinic.

2 Sec. 6. As used in this chapter, "veterans disability clinic"
3 means a law school clinical program that:

4 (1) offers practice opportunities to law students to counsel or
5 represent veterans in claims for veterans disability
6 compensation;

7 (2) is part of the educational curriculum of the law school;

8 (3) is under the direction of a law school faculty member who
9 is recognized by the United States Department of Veterans
10 Affairs under 38 U.S.C. 5904; and

11 (4) provides legal services at no cost or nominal cost to
12 veterans.

13 Sec. 7. (a) The veterans disability clinic fund is established to
14 provide funding for grants to qualified law schools that establish
15 or maintain a veterans disability clinic.

16 (b) The fund shall be administered by the commission.

17 (c) The fund consists of the following:

18 (1) Appropriations made by the general assembly.

19 (2) Donations to the fund.

20 (3) Interest.

21 (4) Money from any other source authorized or appropriated
22 for the fund.

23 Sec. 8. A qualifying law school that wishes to receive a grant to
24 establish or maintain a veterans disability clinic under this chapter
25 shall consult with the department to:

26 (1) identify veterans in need of counsel or representation in a
27 claim for veterans disability compensation;

28 (2) inform veterans about the availability of legal services
29 through the veterans disability clinic; and

30 (3) develop an educational outreach program as part of the
31 veterans disability clinic to advise veterans of their rights in
32 the claims process for veterans disability compensation.

33 Sec. 9. The commission may adopt rules under IC 4-22-2 to
34 implement this chapter.

35 SECTION 2. IC 10-17-14.2 IS ADDED TO THE INDIANA CODE
36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2014]:

38 **Chapter 14.2. Indiana Veteran Recovery Program**

39 Sec. 1. As used in this chapter, "program" refers to the Indiana
40 veteran recovery program established by IC 27-1-44-5.

41 Sec. 2. The director of veterans' affairs and the adjutant general
42 of the Indiana national guard shall enter into a memorandum of



1 understanding with any institutional review board as necessary to
 2 provide assistance to veterans under the program.

3 **Sec. 3. The director of veterans' affairs shall notify each**
 4 **individual in Indiana who has a United States military service**
 5 **related injury or disability of the existence of the program.**

6 **Sec. 4. This chapter expires on the earlier of the following:**

7 **(1) Ninety (90) days after the director of veterans' affairs has**
 8 **determined that the federal Food and Drug Administration**
 9 **has designated hyperbaric oxygen treatment (as defined in**
 10 **IC 27-1-44-2) as standard for care.**

11 **(2) July 1, 2019.**

12 SECTION 3. IC 12-7-2-34, AS AMENDED BY P.L.6-2012,
 13 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2014]: Sec. 34. "Commission" means the following:

15 **(1) for purposes of IC 12-8-15, the meaning set forth in**
 16 **IC 12-8-15-1.**

17 ~~(1)~~ **(2)** For purposes of IC 12-10-2, the meaning set forth in
 18 IC 12-10-2-1.

19 ~~(2)~~ **(3)** For purposes of IC 12-11-7, the meaning set forth in
 20 IC 12-11-7-1.

21 ~~(3)~~ **(4)** For purposes of IC 12-12-2, the meaning set forth in
 22 IC 12-12-2-1.

23 ~~(4)~~ **(5)** For purposes of IC 12-13-14, the meaning set forth in
 24 IC 12-13-14-1.

25 ~~(5)~~ **(6)** For purposes of IC 12-15-46-2, the meaning set forth in
 26 IC 12-15-46-2(a).

27 ~~(6)~~ **(7)** For purposes of IC 12-21-6.5, the meaning set forth in
 28 IC 12-21-6.5-1.

29 ~~(7)~~ **(8)** For purposes of IC 12-28-1, the meaning set forth in
 30 IC 12-28-1-3.

31 SECTION 4. IC 12-8-15 IS ADDED TO THE INDIANA CODE AS
 32 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2014]:

34 **Chapter 15. Brain Injury Rehabilitation and Community Living**
 35 **Commission**

36 **Sec. 1. As used in this chapter, "commission" refers to the brain**
 37 **injury rehabilitation and community living commission established**
 38 **by section 2 of this chapter.**

39 **Sec. 2. The brain injury rehabilitation and community living**
 40 **commission is established within the office of the secretary of**
 41 **family and social services.**

42 **Sec. 3. The commission shall do the following:**



(1) Establish a comprehensive statewide plan to address the needs of individuals with a brain injury and the needs of the family members and caregivers of the individuals with a brain injury.

(2) Develop strategies to implement a full continuum of care for individuals with a brain injury.

Sec. 4. (a) The commission must consist of at least ten (10) members appointed by the secretary of family and social services. The majority of the members appointed must have a brain injury or be a family member who is a caregiver to an individual with a brain injury.

(b) The members of the commission are not entitled to per diem or any reimbursement for serving on the commission.

(c) The term of a member is for three (3) years.

(d) The commission annually shall elect a member to serve as chairperson of the commission.

Sec. 5. (a) Each state agency that serves individuals with a brain injury shall cooperate with the commission to implement the statewide plan developed by the commission under this chapter.

(b) The office of the secretary of family and social services shall provide administrative support for the commission.

Sec. 6. The commission shall prepare an annual report on the status of brain injury services and care. The report must be delivered to the general assembly in an electronic format under IC 5-14-6 and the governor before December 1.

Sec. 7. This chapter expires December 31, 2020.

SECTION 5. IC 27-1-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 44. Indiana Veteran Recovery Program and Fund

Sec. 1. As used in this chapter, "fund" refers to the Indiana veteran recovery fund established by section 6 of this chapter.

Sec. 2. As used in this chapter, "hyperbaric oxygen treatment" means treatment in:

(1) a hyperbaric chamber approved by the federal Food and Drug Administration, as prescribed by a physician; or

(2) a hyperbaric oxygen device that is approved by the federal Food and Drug Administration for investigational use under direction of an institutional review board with a national clinical trial number;

at a state fire code compliant location and delivered by a licensed or nationally certified health care provider.



1 **Sec. 3.** As used in this chapter, "program" refers to the Indiana
 2 veteran recovery program established by section 5 of this chapter.

3 **Sec. 4.** As used in this chapter, "veteran" refers to any
 4 individual in Indiana who has a United States military service
 5 related injury or disability, regardless of prior service status.

6 **Sec. 5. (a)** The Indiana veteran recovery program is established
 7 to provide diagnostic testing, hyperbaric oxygen treatment,
 8 counseling, and rehabilitative treatment of veterans who have
 9 traumatic brain injury or posttraumatic stress disorder.

10 **(b)** The commissioner shall administer the program.

11 **(c)** The commissioner shall do the following:

12 **(1)** Be responsible for the management of all aspects of the
 13 program.

14 **(2)** Prepare and provide program information.

15 **(3)** Use money in the fund to pay for diagnostic testing,
 16 counseling, and rehabilitative treatment of veterans with
 17 traumatic brain injury or posttraumatic stress disorder when
 18 other funding is unavailable, according to the program
 19 guidelines.

20 **(4)** With the assistance of the attorney general, pursue
 21 reimbursement from:

22 **(A)** the federal government; and

23 **(B)** any other responsible third party payer;

24 for payments made under subdivision (3), for deposit in the
 25 fund.

26 **(5)** Act as a liaison to the federal government and other
 27 parties regarding the program.

28 **(6)** Enter into memoranda of understanding, as necessary,
 29 with other state agencies concerning the administration and
 30 management of the fund and the program.

31 **(7)** Adopt rules under IC 4-22-2 to implement this chapter.

32 **Sec. 6. (a)** The Indiana veteran recovery fund is established.

33 **(b)** The purpose of the fund is to:

34 **(1)** track expenditures for services and to provide payments
 35 under the program for diagnostic testing and treatment of
 36 veterans with posttraumatic stress disorder or traumatic
 37 brain injury; and

38 **(2)** fund the administrative expenses of the program.

39 **(c)** The commissioner shall administer the fund.

40 **(d)** Expenses of administering the fund shall be paid from
 41 money in the fund.

42 **(e)** The fund consists of the following:



- (1) Appropriations made by the general assembly.
- (2) Grants and gifts intended for deposit in the fund.
- (3) Interest, premiums, gains, or other earnings on the fund.
- (4) Any reimbursement received from the federal government or third parties.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(g) All expenditures from the fund must be made by the treasurer of state following approval by the budget agency.

Sec. 7. (a) The commissioner shall enter into an agreement with a state entity or a postsecondary educational institution to provide exclusive oversight of the program in Indiana.

(b) The oversight includes all of the following:

(1) Adoption by the state entity or the postsecondary educational institution of program guidelines.

(2) Evaluation and approval of:

(A) all hyperbaric oxygen treatment sites participating in the program; and

(B) diagnostic testing, counseling, and rehabilitative treatment provided under the program.

(3) Inspection of treatment sites, as needed, in coordination with the International Hyperbaric Medical Foundation.

(4) Validation of treatment results according to the program guidelines, including the following:

(A) Biostatistical analysis and verification of treatment effectiveness.

(B) Reporting of analyses to the International Hyperbaric Medical Foundation for use in national studies.

(5) Long term follow-up evaluation of program results in connection with otherwise anticipated and actual state budget expenditures in education, labor, substance abuse, homelessness, incarceration, health care treatment, and use of state programs.

(c) The state entity or the postsecondary educational institution shall receive an established fee from the program at the time payment is made under this chapter to a health care provider for providing hyperbaric oxygen treatment to persons under this chapter.

Sec. 8. (a) A health care provider providing treatment under the program shall bill the program and be paid at:



- (1) the Medicare rate for the treatment; or
- (2) if a Medicare rate does not apply, the fair market rate for the treatment, as approved by the commissioner.

(b) Payment shall be made for treatment under the program only after verification under section 7 of this chapter that the treatment improves clinical outcomes.

(c) Physicians who supervise treatment under the program must be paid at the Medicare Part B facility rate.

(d) The commissioner, through the office of Medicaid policy and planning, shall seek any waiver or approval required by the federal Centers for Medicare and Medicaid Services to obtain Medicaid payment for diagnostic testing, hyperbaric oxygen treatment, counseling, and rehabilitative treatment under the program.

Sec. 9. (a) The program guidelines adopted under this chapter must include the following:

(1) Approval of payment for a treatment that requires:

(A) federal Food and Drug Administration approval for any purpose of a drug or device used in the treatment;

(B) institutional review board approval of protocols or treatments in accord with requirements of the United States Department of Health and Human Services;

(C) voluntary acceptance of the treatment by the patient; and

(D) demonstrated improvement of the patient receiving the treatment through:

(i) standardized, independent pretreatment and posttreatment neuropsychological testing;

(ii) nationally accepted survey instruments;

(iii) neurological imaging; or

(iv) clinical examination.

(2) Payment from the fund promptly after the patient, or health care provider on behalf of the patient, submits documentation required by the program.

(3) Confidentiality of all individually identifiable patient information. However, all data and information from which the identity of an individual patient cannot be reasonably ascertained must be available to the general assembly, participating third party payers, participating institutional review boards, participating health care providers, and other governmental agencies.

(4) A treatment for which approval is granted under subdivision (1) is considered to have been medically necessary



for purposes of any third party payment.

(b) The program guidelines adopted under this chapter may include a pilot subprogram through which first responders, including police officers, firefighters, and other high risk state government employees, may receive treatment under the program according to the same requirements that apply for veterans receiving treatment under the program.

Sec. 10. (a) An individual who receives treatment under the program may not be subject to retaliation of any kind.

(b) An institutional review board that approves treatment provided under the program must be treated as if the institutional review board were a state government institutional review board.

(c) The commissioner shall file an annual audited financial statement with the budget agency and, in an electronic format under IC 5-14-6, the legislative council.

Sec. 11. The commissioner shall, not later than August 1 of each year and in coordination with the Indiana director of veterans' affairs and the state entity or the postsecondary educational institution that provides oversight of the program, file a report concerning the program with the governor, and, in an electronic format under IC 5-14-6, the legislative council. The report shall include all of the following:

(1) The number of individuals for whom payments were made from the fund for treatment under the program.

(2) The condition for which each individual counted under subdivision (1) received treatment and the success rate of each treatment.

(3) Treatment methods for which payment was made under the program and the success rate of each method.

(4) Recommendations concerning integration of the treatment methods described in subdivision (3) with treatments provided in facilities of the federal Department of Defense and Department of Veterans' Affairs.

Sec. 12. This chapter expires July 1, 2019.

SECTION 6. IC 34-13-3-2, AS AMENDED BY P.L.145-2011, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. This chapter applies to a claim or suit in tort against any of the following:

(1) A member of the bureau of motor vehicles commission established under IC 9-15-1-1.

(2) An employee of the bureau of motor vehicles commission who is employed at a license branch under IC 9-16, except for an



employee employed at a license branch operated under a contract with the commission under IC 9-16.

(3) A member of the driver education advisory board established by IC 9-27-6-5.

(4) A health care provider, with respect to any damages resulting from the health care provider's use of hyperbaric oxygen treatment to treat a veteran under the Indiana veteran recovery program under IC 27-1-44. This subdivision expires July 1, 2019.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the state department of health.

(b) As used in this SECTION, "veteran" refers to any individual in Indiana who has a United States military service related injury or disability, regardless of prior service status.

(c) Not later than September 1, 2014, the department shall study and, in an electronic format under IC 5-14-6, report the department's findings and recommendations to the legislative council concerning implementation of a program for the specific treatment of veterans who have traumatic brain injury or posttraumatic stress disorder.

(d) Findings and recommendations made under subsection (c) must include the following:

(1) After consideration by the department of treatment protocols and therapies for traumatic brain injury and posttraumatic stress disorder, including:

(A) resource facilitation; and

(B) cognitive rehabilitation;

recommendations concerning the best peer reviewed, evidence based protocols and therapies to be used to provide the treatment described in subsection (c).

(2) Recommendations concerning the types of health care providers necessary for implementation and any certification of the program.

(3) The estimated number of veterans who have traumatic brain injury or posttraumatic stress disorder.

(4) An analysis of available federal and state funding for the program.

(5) An analysis of the costs of traumatic brain injury and posttraumatic stress disorder among veterans and the economic impact of implementation of the program.

(e) This SECTION expires January 1, 2015.

SECTION 8. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 180, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning insurance.

Page 1, line 1, delete "IC 10-17-14 IS ADDED TO THE INDIANA CODE" and insert "[EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the state department of health.**

(b) As used in this SECTION,"

Page 1, delete lines 2 through 16.

Page 2, delete lines 1 through 16.

Page 2, line 17, delete "Sec. 4. As used in this chapter,".

Page 1, run in line 1 through page 2, line 17.

Page 2, delete lines 21 through 22.

Page 2, line 23, delete "counseling, and rehabilitative", begin a new paragraph and insert:

"(c) Not later than September 1, 2014, the department shall study and, in an electronic format under IC 5-14-6, report the department's findings and recommendations to the legislative council concerning implementation of a program for the specific".

Page 2, delete lines 25 through 42, begin a new paragraph and insert:

"(d) Findings and recommendations made under subsection (c) must include the following:

(1) After consideration by the department of treatment protocols and therapies for traumatic brain injury and posttraumatic stress disorder, including:

(A) resource facilitation;

(B) cognitive rehabilitation; and

(C) hyperbaric therapy;

recommendations concerning the best peer reviewed, evidence based protocols and therapies to be used to provide the treatment described in subsection (c).

(2) Recommendations concerning the types of health care providers necessary for implementation and any certification of the program.

(3) The estimated number of veterans who have traumatic brain injury or posttraumatic stress disorder.



(4) An analysis of available federal and state funding for the program.

(5) An analysis of the costs of traumatic brain injury and posttraumatic stress disorder among veterans and the economic impact of implementation of the program.

(e) This SECTION expires January 1, 2015.

SECTION 2. An emergency is declared for this act."

Delete pages 3 through 6.

and when so amended that said bill do pass.

(Reference is to SB 180 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 180, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning veterans and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-17-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 12.5. Veterans Disability Clinic Fund

Sec. 1. As used in this chapter, "commission" refers to the Indiana veterans' affairs commission established by IC 10-17-13-4.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of veterans' affairs established by IC 10-17-1-2.

Sec. 3. As used in this chapter, "director" refers to the director of veterans' affairs.

Sec. 4. As used in this chapter, "fund" refers to the veterans disability clinic fund established by section 7 of this chapter.

Sec. 5. As used in this chapter, "qualified law school" means a law school:

ES 180—LS 6354/DI 97



(1) located in Indiana; and
 (2) approved by the American Bar Association;
 that operates a veterans disability clinic.

Sec. 6. As used in this chapter, "veterans disability clinic" means a law school clinical program that:

- (1) offers practice opportunities to law students to counsel or represent veterans in claims for veterans disability compensation;
- (2) is part of the educational curriculum of the law school;
- (3) is under the direction of a law school faculty member; and
- (4) provides legal services at no cost or nominal cost to veterans.

Sec. 7. (a) The veterans disability clinic fund is established to provide funding for grants to qualified law schools that establish or maintain a veterans disability clinic.

(b) The fund shall be administered by the commission.

(c) The fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Donations to the fund.
- (3) Interest.
- (4) Money transferred to the fund from other funds.
- (5) Money from any other source authorized or appropriated for the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund or to any other fund.

(e) Money in the fund is continually appropriated to carry out the purposes of the fund.

Sec. 8. A qualifying law school that wishes to receive a grant to establish or maintain a veterans disability clinic under this chapter shall consult with the department to:

- (1) identify veterans in need of counsel or representation in a claim for veterans disability compensation;
- (2) inform veterans about the availability of legal services through the veterans disability clinic; and
- (3) develop an educational outreach program as part of the veterans disability clinic to advise veterans of their rights in the claims process for veterans disability compensation.

Sec. 9. The commission may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 10. The director or a member of the commission may make a request to the general assembly for an appropriation to the fund.

SECTION 2. IC 10-17-14.2 IS ADDED TO THE INDIANA CODE



AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 14.2. Indiana Veteran Recovery Program

Sec. 1. As used in this chapter, "program" refers to the Indiana veteran recovery program established by IC 27-1-44-5.

Sec. 2. The director of veterans' affairs and the adjutant general of the Indiana national guard shall enter into a memorandum of understanding with any institutional review board as necessary to provide assistance to veterans under the program.

Sec. 3. The director of veterans' affairs shall notify each individual in Indiana who has a United States military service related injury or disability of the existence of the program.

Sec. 4. This chapter expires on the earlier of the following:

(1) Ninety (90) days after the director of veterans' affairs has determined that the federal Food and Drug Administration has designated hyperbaric oxygen treatment (as defined in IC 27-1-44-2) as standard for care.

(2) July 1, 2019.

SECTION 3. IC 27-1-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 44. Indiana Veteran Recovery Program and Fund

Sec. 1. As used in this chapter, "fund" refers to the Indiana veteran recovery fund established by section 6 of this chapter.

Sec. 2. As used in this chapter, "hyperbaric oxygen treatment" means treatment in:

(1) a hyperbaric chamber approved by the federal Food and Drug Administration, as prescribed by a physician; or

(2) a hyperbaric oxygen device that is approved by the federal Food and Drug Administration for investigational use under direction of an institutional review board with a national clinical trial number;

at a state fire code compliant location and delivered by a licensed or nationally certified health care provider.

Sec. 3. As used in this chapter, "program" refers to the Indiana veteran recovery program established by section 5 of this chapter.

Sec. 4. As used in this chapter, "veteran" refers to any individual in Indiana who has a United States military service related injury or disability, regardless of active, reserve, or retired status.

Sec. 5. (a) The Indiana veteran recovery program is established to provide diagnostic testing, hyperbaric oxygen treatment,



counseling, and rehabilitative treatment of veterans who have traumatic brain injury or posttraumatic stress disorder.

(b) The commissioner shall administer the program.

(c) The commissioner shall do the following:

(1) Be responsible for the management of all aspects of the program.

(2) Prepare and provide program information.

(3) Use money in the fund to pay for diagnostic testing, counseling, and rehabilitative treatment of veterans with traumatic brain injury or posttraumatic stress disorder when other funding is unavailable, according to the program guidelines.

(4) With the assistance of the attorney general, pursue reimbursement from:

(A) the federal government; and

(B) any other responsible third party payer; for payments made under subdivision (3), for deposit in the fund.

(5) Act as a liaison to the federal government and other parties regarding the program.

(6) Enter into memoranda of understanding, as necessary, with other state agencies concerning the administration and management of the fund and the program.

(7) Adopt rules under IC 4-22-2 to implement this chapter.

Sec. 6. (a) The Indiana veteran recovery fund is established.

(b) The purpose of the fund is to:

(1) track expenditures for services and to provide payments under the program for diagnostic testing and treatment of veterans with posttraumatic stress disorder or traumatic brain injury; and

(2) fund the administrative expenses of the program.

(c) The commissioner shall administer the fund.

(d) Expenses of administering the fund shall be paid from money in the fund.

(e) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Grants and gifts intended for deposit in the fund.

(3) Interest, premiums, gains, or other earnings on the fund.

(4) Any reimbursement received from the federal government or third parties.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same



manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) Money in the fund is continuously appropriated for the purposes of the fund.

(i) All expenditures from the fund must be made by the treasurer of state following approval by the budget agency.

Sec. 7. (a) The commissioner shall enter into an agreement with a state entity or a postsecondary educational institution to provide exclusive oversight of the program in Indiana.

(b) The oversight includes all of the following:

(1) Adoption by the state entity or the postsecondary educational institution of program guidelines.

(2) Evaluation and approval of:

(A) all hyperbaric oxygen treatment sites participating in the program; and

(B) diagnostic testing, counseling, and rehabilitative treatment provided under the program.

(3) Inspection of treatment sites, as needed, in coordination with the International Hyperbaric Medical Foundation.

(4) Validation of treatment results according to the program guidelines, including the following:

(A) Biostatistical analysis and verification of treatment effectiveness.

(B) Reporting of analyses to the International Hyperbaric Medical Foundation for use in national studies.

(5) Long term follow-up evaluation of program results in connection with otherwise anticipated and actual state budget expenditures in education, labor, substance abuse, homelessness, incarceration, health care treatment, and use of state programs.

(c) The state entity or the postsecondary educational institution shall receive an established fee from the program at the time payment is made under this chapter to a health care provider for providing hyperbaric oxygen treatment to persons under this chapter.

Sec. 8. (a) A health care provider providing treatment under the program shall bill the program and be paid at:

(1) the Medicare rate for the treatment; or

(2) if a Medicare rate does not apply, the fair market rate for the treatment, as approved by the commissioner.



(b) Payment shall be made for treatment under the program only after verification under section 7 of this chapter that the treatment improves clinical outcomes.

(c) Physicians who supervise treatment under the program must be paid at the Medicare Part B facility rate.

(d) The commissioner, through the office of Medicaid policy and planning, shall seek any waiver or approval required by the federal Centers for Medicare and Medicaid Services to obtain Medicaid payment for diagnostic testing, hyperbaric oxygen treatment, counseling, and rehabilitative treatment under the program.

Sec. 9. (a) The program guidelines adopted under this chapter must include the following:

(1) Approval of payment for a treatment that requires:

(A) federal Food and Drug Administration approval for any purpose of a drug or device used in the treatment;

(B) institutional review board approval of protocols or treatments in accord with requirements of the United States Department of Health and Human Services;

(C) voluntary acceptance of the treatment by the patient; and

(D) demonstrated improvement of the patient receiving the treatment through:

(i) standardized, independent pretreatment and posttreatment neuropsychological testing;

(ii) nationally accepted survey instruments;

(iii) neurological imaging; or

(iv) clinical examination.

(2) Payment from the fund promptly after the patient, or health care provider on behalf of the patient, submits documentation required by the program.

(3) Confidentiality of all individually identifiable patient information. However, all data and information from which the identity of an individual patient cannot be reasonably ascertained must be available to the general assembly, participating third party payers, participating institutional review boards, participating health care providers, and other governmental agencies.

(4) A treatment for which approval is granted under subdivision (1) is considered to have been medically necessary for purposes of any third party payment.

(b) The program guidelines adopted under this chapter may include a pilot subprogram through which first responders,



including police officers, firefighters, and other high risk state government employees, may receive treatment under the program according to the same requirements that apply for veterans receiving treatment under the program.

Sec. 10. (a) An individual who receives treatment under the program may not be subject to retaliation of any kind.

(b) An institutional review board that approves treatment provided under the program must be treated as if the institutional review board were a state government institutional review board.

(c) Except as provided in this chapter, the program and the fund are not subject to any budget review or approval process otherwise required under state law. However, the commissioner shall file an annual audited financial statement with the budget agency and, in an electronic format under IC 5-14-6, the legislative council.

Sec. 11. The commissioner shall, not later than August 1 of each year and in coordination with the Indiana director of veterans' affairs and the state entity or the postsecondary educational institution that provides oversight of the program, file a report concerning the program with the governor, and, in an electronic format under IC 5-14-6, the legislative council. The report shall include all of the following:

- (1)** The number of individuals for whom payments were made from the fund for treatment under the program.
- (2)** The condition for which each individual counted under subdivision (1) received treatment and the success rate of each treatment.
- (3)** Treatment methods for which payment was made under the program and the success rate of each method.
- (4)** Recommendations concerning integration of the treatment methods described in subdivision (3) with treatments provided in facilities of the federal Department of Defense and Department of Veterans' Affairs.

Sec. 12. This chapter expires July 1, 2019.

SECTION 4. IC 34-13-3-2, AS AMENDED BY P.L.145-2011, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. This chapter applies to a claim or suit in tort against any of the following:

- (1)** A member of the bureau of motor vehicles commission established under IC 9-15-1-1.
- (2)** An employee of the bureau of motor vehicles commission who is employed at a license branch under IC 9-16, except for an employee employed at a license branch operated under a contract



with the commission under IC 9-16.

(3) A member of the driver education advisory board established by IC 9-27-6-5.

(4) A health care provider, with respect to any damages resulting from the health care provider's use of hyperbaric oxygen treatment to treat a veteran under the Indiana veteran recovery program under IC 27-1-44. This subdivision expires July 1, 2019."

Page 1, line 17, after "facilitation;" insert "and".

Page 2, line 1, delete "and".

Page 2, delete line 2.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 180 as printed January 31, 2014.)

CLERE, Chair

Committee Vote: yeas 0, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 180 be amended to read as follows:

Page 3, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 3. IC 12-7-2-34, AS AMENDED BY P.L.6-2012, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 34. "Commission" means the following:

(1) for purposes of IC 12-8-15, the meaning set forth in IC 12-8-15-1.

(+) (2) For purposes of IC 12-10-2, the meaning set forth in IC 12-10-2-1.

(=) (3) For purposes of IC 12-11-7, the meaning set forth in IC 12-11-7-1.

(-) (4) For purposes of IC 12-12-2, the meaning set forth in IC 12-12-2-1.

(+) (5) For purposes of IC 12-13-14, the meaning set forth in IC 12-13-14-1.

(=) (6) For purposes of IC 12-15-46-2, the meaning set forth in IC 12-15-46-2(a).

(-) (7) For purposes of IC 12-21-6.5, the meaning set forth in

ES 180—LS 6354/DI 97



IC 12-21-6.5-1.

(7) (8) For purposes of IC 12-28-1, the meaning set forth in IC 12-28-1-3.

SECTION 4. IC 12-8-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 15. Brain Injury Rehabilitation and Community Living Commission

Sec. 1. As used in this chapter, "commission" refers to the brain injury rehabilitation and community living commission established by section 2 of this chapter.

Sec. 2. The brain injury rehabilitation and community living commission is established within the office of the secretary of family and social services.

Sec. 3. The commission shall do the following:

(1) Establish a comprehensive statewide plan to address the needs of individuals with a brain injury and the needs of the family members and caregivers of the individuals with a brain injury.

(2) Develop strategies to implement a full continuum of care for individuals with a brain injury.

Sec. 4. (a) The commission must consist of at least ten (10) members appointed by the secretary of family and social services. The majority of the members appointed must have a brain injury or be a family member who is a caregiver to an individual with a brain injury.

(b) The members of the commission are not entitled to per diem or any reimbursement for serving on the commission.

(c) The term of a member is for three (3) years.

(d) The commission annually shall elect a member to serve as chairperson of the commission.

Sec. 5. (a) Each state agency that serves individuals with a brain injury shall cooperate with the commission to implement the statewide plan developed by the commission under this chapter.

(b) The office of the secretary of family and social services shall provide administrative support for the commission.

Sec. 6. The commission shall prepare an annual report on the status of brain injury services and care. The report must be delivered to the general assembly in an electronic format under IC 5-14-6 and the governor before December 1.



Sec. 7. This chapter expires December 31, 2020."

Renumber all SECTIONS consecutively.

(Reference is to ESB 180 as printed February 24, 2014.)

SAUNDERS

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 180 be amended to read as follows:

Page 2, line 8, delete "member;" and insert "**member who is recognized by the United States Department of Veterans Affairs under 38 U.S.C. 5904;**".

Page 3, line 37, delete "active, reserve, or retired" and insert "**prior service**".

Page 8, line 11, delete "active, reserve, or retired" and insert "**prior service**".

(Reference is to ESB 180 as printed February 24, 2014.)

ZENT

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 180 be amended to read as follows:

Page 2, delete line 19.

Page 2, line 20, delete "(5)" and insert "**(4)**".

Page 2, delete lines 22 through 25.

Page 2, delete lines 38 through 39.

Page 5, delete lines 1 through 4.

Page 5, line 5, delete "(i)" and insert "**(g)**".

Page 7, delete lines 8 through 10, begin a new paragraph and insert: "**(c) The commissioner shall file an**".

(Reference is to ESB 180 as printed February 24, 2014.)

BROWN T

